

Senate Study Bill 1117

SENATE FILE _____
BY (PROPOSED COMMITTEE ON STATE
GOVERNMENT BILL BY
CHAIRPERSON ZIEMAN)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to tobacco retailers and providing penalties and
2 providing an effective date.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 2779SC 80
5 pf/pj/5

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1 1 Section 1. NEW SECTION. 453A.2A TOBACCO COMPLIANCE
1 2 EMPLOYEE TRAINING PROGRAM.

1 3 The alcoholic beverages division of the department of
1 4 commerce shall develop minimum training criteria for tobacco
1 5 compliance employee training programs provided by retailers to
1 6 inform employees about state and federal laws and regulations
1 7 regarding tobacco sales to minors. The criteria shall provide
1 8 that the training program not exceed one hour in length.

1 9 Sec. 2. Section 453A.22, Code 2003, is amended by adding
1 10 the following new subsection:

1 11 NEW SUBSECTION. 2A. If an employee of a retailer violates
1 12 section 453A.2, subsection 1, unless the retailer directs or
1 13 knowingly permits the employee to violate section 453A.2,
1 14 subsection 1, the retailer shall not be assessed a penalty
1 15 under subsection 2 for a first or second such violation of
1 16 section 453A.2, subsection 1, that takes place at the same
1 17 place of business of the retailer within a one-year period,
1 18 and the underlying violations shall be deemed not to be
1 19 violations of section 453A.2, subsection 1, for the purpose of
1 20 determining the number of violations for which a penalty may
1 21 be assessed pursuant to subsection 2, if the retailer provides
1 22 written documentation of all of the following:

1 23 a. That the retailer has in place a tobacco compliance
1 24 employee training program that meets the minimum training
1 25 criteria established by the alcoholic beverages division of
1 26 the department of commerce pursuant to section 453A.2A, to
1 27 provide employees with information on state and federal laws
1 28 and regulations regarding tobacco sales to minors.

1 29 b. That the employee has acknowledged, in writing, that
1 30 the employee has completed the tobacco compliance employee
1 31 training program and understands state and federal laws and
1 32 regulations regarding tobacco sales to minors.

1 33 Sec. 3. Section 805.3, Code 2003, is amended to read as
1 34 follows:

1 35 805.3 PROCEDURE.

2 1 1. Before the cited person is released, the person shall
2 2 sign the citation, either in a paper or electronic format,
2 3 under penalty of providing false information under section
2 4 719.3, properly identifying the person cited. The person's
2 5 signature shall also serve as a written promise to appear in
2 6 court at the time and place specified. A copy of the citation
2 7 shall be given to the person.

2 8 2. If the citation is issued for a violation of section
2 9 453A.2, subsection 1, by an employee of a retailer in the
2 10 course of the employee's employment, a copy of the citation
2 11 shall be sent by certified mail, within twenty days of the
2 12 date of issuance of the citation, to the holder of the retail
2 13 permit pursuant to section 453A.13 for the place of business
2 14 where the offense occurred. If a copy of the citation is not
2 15 mailed by certified mail to the holder of the permit within
2 16 twenty days of the date of issuance of the citation, the
2 17 underlying violation shall be deemed not to be a violation of
2 18 section 453A.2, subsection 1, for the purposes of determining
2 19 the number of violations for which a penalty may be assessed
2 20 pursuant to section 453A.22, subsection 2, paragraph "b", "c",
2 21 or "d".

2 22 Sec. 4. CIGARETTE RETAILER CIVIL PENALTIES ASSESSED PRIOR

2 23 TO EFFECTIVE DATE. Notwithstanding section 453A.22,
2 24 subsection 2, a retailer shall be assessed and shall pay a
2 25 civil penalty of six hundred dollars in lieu of the penalty
2 26 that would be assessed under section 453A.22, subsection 2,
2 27 for each violation of section 453A.2, subsection 1, by the
2 28 retailer or an employee of the retailer which is pending on
2 29 the effective date of this section and for which a penalty has
2 30 not been assessed under section 453A.22, subsection 2. If the
2 31 retailer pays the civil penalty assessed under this section,
2 32 the underlying violation shall be deemed not to be a violation
2 33 of section 453A.2, subsection 1, for the purpose of
2 34 determining the number of violations for which a penalty may
2 35 be assessed pursuant to section 453A.22, subsection 2. The
3 1 proceeds derived from the collection of the civil penalties
3 2 under this section shall be credited to the general fund of
3 3 the state. The office of the attorney general shall enforce
3 4 this section and shall assess and collect the penalties under
3 5 this section.

3 6 Sec. 5. EFFECTIVE DATE. Section 4 of this Act, relating
3 7 to cigarette retailer civil penalties assessed prior to the
3 8 effective date of this Act, being deemed of immediate
3 9 importance, takes effect upon enactment.

3 10 EXPLANATION

3 11 This bill relates to cigarette retailers and the civil
3 12 penalties assessed against retailers for certain violations.
3 13 The bill instructs the alcoholic beverages division of the
3 14 department of commerce to develop minimum training criteria
3 15 for tobacco compliance employee training programs provided by
3 16 retailers to inform employees about state and federal laws and
3 17 regulations regarding tobacco sales to minors. The training
3 18 program is not to exceed one hour in length. The bill
3 19 provides that if an employee of a retailer sells, gives, or
3 20 otherwise supplies any tobacco, tobacco products, or
3 21 cigarettes to any person under the age of 18 (violates Code
3 22 section 453A.2, subsection 1), unless the retailer directs or
3 23 knowingly permits the employee to violate this provision, the
3 24 retailer is not to be assessed a penalty, in addition to other
3 25 penalties fixed for a first or second violation of this
3 26 provision that takes place at the same place of business of
3 27 the retailer within a one-year period, and the underlying
3 28 violations are to be deemed not to be violations for
3 29 determining the number of the retailer violations if the
3 30 retailer provides certain written documentation. The written
3 31 documentation provided is to include that the retailer has in
3 32 place a tobacco compliance employee training program that
3 33 meets the minimum training criteria established by the
3 34 alcoholic beverages division and that the employee has
3 35 acknowledged, in writing, that the employee has completed the
4 1 tobacco compliance employee training program and understands
4 2 state and federal laws and regulations regarding tobacco sales
4 3 to minors.

4 4 The bill also provides that if a citation is issued for a
4 5 violation of Code section 453A.2, subsection 1, by an employee
4 6 of a retailer, a copy of the citation is to be sent by
4 7 certified mail, within 20 days of the date of issuance of the
4 8 citation, to the holder of the retail permit for the place of
4 9 business where the offense occurred. If a copy of the
4 10 citation is not mailed as specified, the underlying violation
4 11 is to be deemed not to be a violation of Code section 453A.2,
4 12 subsection 1, for the purposes of determining the number of
4 13 violations, above a first violation, for which a penalty may
4 14 be assessed in addition to other penalties fixed for such
4 15 violation.

4 16 The bill also requires that a retailer be assessed and pay
4 17 a civil penalty of \$600, in lieu of the existing civil penalty
4 18 amount for each violation of Code section 453A.2, subsection
4 19 1, by the retailer or an employee of the retailer which is
4 20 pending on the effective date of this provision of the bill
4 21 and for which a penalty has not been assessed. If the
4 22 retailer pays the civil penalty assessed under this provision
4 23 of the bill, the underlying violation is to be deemed not to
4 24 be a violation of Code section 453A.2, subsection 1, for the
4 25 purpose of determining the number of violations for which a
4 26 penalty may be assessed. The proceeds derived from the
4 27 collection of the civil penalties under this provision are to
4 28 be credited to the general fund of the state. The office of
4 29 the attorney general is directed to assess and collect the
4 30 civil penalties under this provision of the bill. This
4 31 provision takes effect upon enactment.

